

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

INDIANAPOLIS FRUIT COMPANY,

Plaintiff,

v.

Case No. 10-14070
Hon. Lawrence P. Zatkoff

LOCAVORE FOOD
DISTRIBUTORS, INC.,
and ERIC HAHN,

Defendants.

ORDER

This matter is before the Court because it has been brought to the Court's attention at a scheduling conference held on January 20, 2011, that the Court's dismissal of Plaintiff's state-law breach of contract claim (Count II) should be reinstated. Based upon the parties' representations at the scheduling conference, in Counts I and III, Plaintiff is seeking to enforce the statutory trust set forth in the Perishable Agricultural Commodities Act ("PACA"), 7 U.S.C. § 499 *et seq.* In proving the elements of Counts I and III, which the Court has federal subject matter jurisdiction over, Plaintiff will need to prove a breach of the contract that was entered into between the parties under state law, i.e., Count II.

Accordingly, the Court will reinstate and exercise supplemental jurisdiction over Plaintiff's state-law claim (Count II). The Court has supplemental jurisdiction over state-law claims pursuant to 28 U.S.C. § 1337(a). Pursuant to 28 U.S.C. § 1337(a), in an action of which the district court has original jurisdiction over a claim, the district court also has supplemental jurisdiction over all other claims that "form part of the same case or controversy." The Court finds that Plaintiff's Count II

is intertwined in such a manner with Plaintiff's federal claim that the claims form part of the same controversy. Therefore, IT IS HEREBY ORDERED that Count II of Plaintiff's complaint is REINSTATED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: January 25, 2011

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on January 25, 2011.

s/Marie E. Verlinde
Case Manager
(810) 984-3290